

King County's Brightwater Project

**Construction Stormwater NPDES Permits
by Washington State Department of Ecology**

**Public Comment Period
Comments and Responses**

Washington State Department of Ecology's (Ecology) Responses Made During Public Comment Period

There are two individual construction stormwater NPDES permits for the Brightwater project – one for the Conveyance System and one for the wastewater treatment plant site. Ecology received numerous comments during the public comment period on the Brightwater construction stormwater draft NPDES permits and fact sheets. Some of the comments received were specific to the wastewater treatment plant site while others pertained to the conveyance system. Some comments pertained to both the conveyance system and the wastewater treatment plant. When possible, Ecology responded directly to individual e-mail comments as they were received. These comments and responses are provided below. For comments that were made during the public comment period but were not responded to during the comment period due to time restraints, these comments and responses are provided in the Fact Sheets (see Appendix D – Conveyance System Permit and Appendix E – Wastewater Treatment Plant Permit).

----- Original Message -----

From: [Corinne Hensley](mailto:Corinne.Hensley@ecy.wa.gov)

To: tmil461@ecy.wa.gov

Cc: [gerald farris](#) ; [Emma Dixon](#) ; 'Charley Blaine (E-mail)' ; [linda Gray](#)

Sent: Friday, September 10, 2004 4:29 PM

Subject: NPDES BRightwater KC Conveyance

Dear Ms. Miller,

I am a concerned citizen living in the area of Brightwater. I am concerned about dewatering and our local well use as well as conveyance lines as conduits for groundwater movement. I am also concerned that Sno King Environmental Alliance has filed a court appeal of the FEIS for this project and approval of an NPDES permit without public review and notice in this area removes the ability of citizens such as myself to have due process under the law. No notice has ever been published on this permit or comment period in our immediate area through the Woodinville Weekly. We rely on this small paper to provide us with notice of projects coming into our area and the ability to request public hearings to provide our comment. I am deeply saddened that King County chose not to notice our community that is proposed to site their facilities. It shows a complete lack of concern for the public process and the hundreds of residents that will be immediate neighbors to KC facilities due to this project. I request that DOE provide an appropriate notice as well as KC to those of us that must live next to them and then a public hearing to discuss and comment on the issues they present on this NPDES permit. I also request that I receive copies of the application. If they are in digital format, better. Thank you for your time.

Corinne Hensley
Phone; 425 486 6811
22627 76th Ave SE
Woodinville, WA 98072

-----Original Message-----

From: Linda Gray [<mailto:newtl@msn.com>]

Sent: Saturday, September 11, 2004 2:56 PM

To: Miller, Tricia

Cc: gerald farris; Emma Dixon; 'Charley Blaine (E-mail)'; Corinne Hensley
Subject: Re: NPDES BRightwater KC Conveyance

Dear Ms. Miller - I concur with Corinne's email below and request DOE provide an appropriate notice as well as KC to those of us that must live next to them and then a public hearing to discuss and comment on the issues they present on this NPDES permit.

Thank you

----- Original Message -----

From: [Henley, Mark](#)

To: 'chensley@u.washington.edu' ; 'newtl@msn.com'

Cc: [Miller, Tricia](#) ; [Perkins, Sally](#)

Sent: Tuesday, September 14, 2004 1:59 PM

Subject: Construction Stormwater NPDES Permit - Brightwater WWTP

Dear Linda and Corinne,

Tricia Miller, Northwest Regional Office's Water Quality Permit Coordinator, forwarded your e-mail messages below. Thank you for your interest in Ecology's construction stormwater NPDES permit program. As an introduction, I am the Permit Manager and Facility Engineer for King County's Brightwater project. I met Corinne in January 2004 in meeting with representative Ed O'Brien regarding Ecology's review of the County's EIS. For the Brightwater project, there are two construction stormwater NPDES permits - one for the Wastewater Treatment Plant (WWTP) and one for the Conveyance system. The Public Notice regards the draft construction stormwater NPDES permit for the WWTP. The public comment period for this permit ends on October 10, 2004. The draft construction stormwater NPDES permit for the conveyance system has not been issued for public comment yet. It is anticipated that the draft conveyance permit will be issued for public comment starting sometime next week. The construction stormwater NPDES permits for Brightwater are specific to the discharges of construction stormwater and dewatering waters to surface water bodies and to groundwater. The goal of the stormwater permits is to address water quality issues in the receiving streams and groundwater from the impacts of discharging stormwater and dewatering waters to these waters of the State. Per Corinne's concern about dewatering and the effect on local well use and conveyance lines as acting for groundwater movement, Ecology believes that these issues were adequately addressed in the FEIS. Namely, the hydrogeologic studies indicate that dewatering wells are hydraulically down gradient from the Cross Valley aquifer and the use of grouting the annular space between the soil and the outer surface of the pre-cast concrete tunnel segments will restrict the flow of groundwater.

Ecology takes the Public Notice process very seriously. We strive to have an open, transparent and fair process. The Public Notice of Draft for the construction stormwater NPDES permit for the WWTP was published in the Seattle Times/ Post Intelligencer and Everett Herald on September 10, 2004. Ecology provided a paid advertisement to the largest newspapers in King and Snohomish Counties in order to solicit public comment from the broadest and largest circulation areas. The cost of this ad in the Seattle Times/P.I. was approximately \$1,800. Ecology does not publish in every newspaper due to economic constraints. Nonetheless, we provided an e-mail note on Friday, September 10, 2004 at 10:54 a.m. to the

Woodinville Weekly staff writer, Jeanette Knutson, who regularly reports on Brightwater. This e-mail note (see below) was also sent to the North Shore Citizen, PI Snohomish Bureau, Times Snohomish Bureau, Journal of Commerce, Herald, Herald Enterprise Chain, and the Edmonds Beacon. The e-mail note stated that Ecology was seeking public comment. The e-mail note was not a paid advertisement but rather a note to writers and editors of local papers to notify them that we are seeking comment and to let them decide whether or not our note was newsworthy. Today, the Journal of Commerce decided to publish it. Please note that I took special measures to ensure that Corinne received not only an electronic version of the draft fact sheet and permit but a hardcopy in the mail as well. This was a promise I made to Corinne in January of this year to keep her informed. Please also note that Ecology's website has an "Upcoming Public Events" section with a public Events calendar that lists all the permits for public comment.

In regard to a public hearing, Ecology is the decision authority on whether or not to hold a public hearing on our permit. Comments on the construction stormwater permit need to be specific to the terms and conditions of the permit and fact sheet and must raise substantial issues to warrant a hearing.

A copy of the application was requested. Per our "Announcement of Draft Wastewater Permit to Discharge to State Waters", please contact Sally Perkins at 425-649-7190 or via e-mail at sper@ecy.wa.gov This will help track our public disclosure history. As I recall, the application was originally submitted to Ecology as a hardcopy only.

It is my hope that this e-mail address your earlier comments. Please feel free to contact me with additional concerns or questions. Thanks.

Sincerely,

Mark Henley, P.E.
Brightwater Facility Engineer
Water Quality Program
Washington State Department of Ecology
phone 425-649-7103
fax 425-649-7098
mahe461@ecy.wa.gov

-----Original Message-----

From: Altose, Larry
Sent: Friday, September 10, 2004 10:54 AM
Subject: Dept. of Ecology News: Proposed construction stormwater permit for Brightwater treatment plant project

Editors, reporters:

The Department of Ecology is seeking public comment on a proposed construction stormwater permit to protect water quality during construction of King County's Brightwater wastewater treatment plant near Woodinville.

The permit sets limits on turbidity, and other measurements of water quality. Turbidity represents the amount of silt allowed in stormwater that runs off from the construction site and enters waterways. The

permit also requires monitoring of dewatering water. To build foundation structures, ground water must be pumped from the areas to be excavated. The permit sets terms and conditions for the discharge of dewatering water before it can be released into Little Bear Creek.

The comment period concludes on Oct. 10, 2004.

To comment on the proposed permit please contact:

Water Quality Permit Coordinator

Department of Ecology

Northwest Regional Office

3190 - 160th Avenue SE

Bellevue WA 98008-5452

Email: tml461@ecy.wa.gov

Fax: 425-649-7098.

To view the permit, its appendices and companion technical fact sheet on the Internet, please visit

http://www.ecy.wa.gov/programs/wq/permits/northwest_permits.html.

To provide a simpler link to your readers, the same information can be accessed on Ecology's home page, www.ecy.wa.gov under Upcoming Public Events.

Ecology expects to request public comment later this month on a similar construction stormwater permit for the Brightwater project's conveyance system, which includes pipelines and tunnels.

Larry Altose, Public Information
Wash. Dept. of Ecology, NW Region
425-649-7009

----- Original Message -----

From: [Corinne Hensley](#)

To: [Henley, Mark](#) ; newtl@msn.com

Cc: [Miller, Tricia](#) ; [Perkins, Sally](#) ; geraldfarris@earthlink.com ; 'Charley Blaine (E-mail)' ; [Emma Dixon](#) ; James@salbu.com

Sent: Friday, October 08, 2004 9:10 AM

Subject: Re: Construction Stormwater NPDES Permit - Brightwater WWTP

Mark,

How does an individual or group of individuals request additional comment time on the Brightwater SR 9 site? We are attempting to review as much as we can and the time frame we have left, including completion on a Sunday is not within a reasonable time limit. Can the public request more time to review and comment on these documents? If so, can we get an additional one to two weeks? If not, how do we get time and who do we ask? Also, it is my understanding that a public hearing can be held on these types of permits. How does one get a public meeting to clarify the multitude of questions that our community has? Thank you for a quick response.

Corinne Hensley

425-486-6811

-----Original Message-----

From: Linda Gray [<mailto:newtl@msn.com>]

Sent: Friday, October 08, 2004 9:26 AM

To: Henley, Mark

Cc: Miller, Tricia; Perkins, Sally; geraldfarris@earthlink.com; 'Charley Blaine (E-mail)'; Emma Dixon; James@salbu.com; Corinne Hensley; msakura

Subject: Re: Construction Stormwater NPDES Permit - Brightwater WWTP

Mark - I would like to echo Corinne's request below. Please extend this comment period. Please also know I am very interested in a public hearing on this.

As you know the design for this plant is being totally rewritten **again**. Following the discovery of an active fault on the site last week, King County plans to move the plant further south 620 feet. We also don't know if there are more faults on the site. Our earthquake expert Dr. Yeats, who is the reason the King County Hearing examiner required KC to trench, says King County must also be required to trench the side even if it doesn't show on LIDAR because there may be branches of that fault further South in the area where they plan to move.

SKEA members asked last week for a copy of King County's moved plant design/valid scale and were told it's not ready yet. Doesn't this call into question all that relates to this design - everything that comes off the site - and was addressed in their now defunct DEIS, FEIS, Technical docs, amendments, etc, etc..

My question is how can they apply for a permit when they don't have any design. Again, the public has no idea anymore what this plant will do, look like, etc. We've been purposely left in the dark - more evidence this is not/nor has it been a SEPA process at all.

Please provide an extension and look into what King County is using to request this permit.

Thank you - Linda Gray, SKEA

Ecology E-mail response Dated 10/08/04

Linda,

The public comment period for the draft construction stormwater NPDES permit for the WWTP has been extended until the end of Friday, October 22, 2004.

Ecology sets the limits on the discharge of stormwater and dewatering waters to Little Bear Creek and groundwater. These limits are water-quality and technologies based limits and are protective of water quality. The County has to provide a design that provides sufficient treatment to meet Ecology's limits. If the County does not, then the County will be in violation of the permit and subject to fine.

Sincerely,
Mark Henley, P.E.
Brightwater Facility Engineer
Water Quality Program
Washington State Department of Ecology
phone 425-649-7103
fax 425-649-7098
mahe461@ecy.wa.gov

----- Original Message -----

From: [Henley, Mark](#)

To: 'Corinne Hensley'; newtl@msn.com

Cc: [Miller, Tricia](#); [Perkins, Sally](#); geraldfarris@earthlink.com; 'Charley Blaine (E-mail)'; [Emma Dixon](#); James@salbu.com; 'wstankus@earthlink.net'; [Fitzpatrick, Kevin \(ECY\)](#)

Sent: Friday, October 08, 2004 10:45 AM

Subject: RE: Construction Stormwater NPDES Permit - Brightwater WWTP

Corinne,

Ecology has reviewed your request for an extension of the 30-day public comment period on Ecology's draft construction stormwater National Pollutant Discharge Elimination System (NPDES) permit for the Brightwater Wastewater Treatment Plant (WWTP). Based on discussions with Kevin Fitzpatrick, Water Quality Section Manager, we are extending the public comment period an additional 10 business days. Therefore, the comment period on the draft construction stormwater permit for the WWTP is extended until the close of business on Friday, October 22, 2004. The ending date for the public comment period on the draft construction stormwater permit for the Conveyance system remains the same, ending October 24, 2004.

In regard to a public hearings, these formal hearings can be held for draft NPDES permits (see my below e-mail to you dated 9/14/04). As previously stated, Ecology is the decision authority to decide whether or not a public hearing on our draft permits is warranted and our decision regarding a formal public hearing is based on the feedback that we receive during the public comment period. It is important to note that the comments need to be specific to the terms and conditions of our draft permits and fact sheets and need to raise substantial issues as they relate to the content of the permits to warrant a formal public hearing. The draft permits address the discharge of construction stormwater and dewatering waters to Little Bear Creek and to groundwater during the construction period. The draft permits are water quality permits and do not pertain to siting or land use issues. At this time, I have received comments from you, Linda Gray, and Bill Stankus. However, none of the comments have been specific to terms in the draft construction stormwater permits and therefore would not warrant a public hearing. Again, comments need to be specific to the draft permits and be substantial in nature to warrant a hearing.

If you are interested, I am very willing to meet informally with you and others regarding questions you may have on the draft stormwater permits.

Sincerely,
Mark Henley, P.E.
Brightwater Facility Engineer
Water Quality Program
Washington State Department of Ecology
phone 425-649-7103
fax 425-649-7098
mahe461@ecy.wa.gov

-----Original Message-----

From: Linda Gray [mailto:newtl@msn.com]

Sent: Friday, October 08, 2004 12:19 PM

To: Henley, Mark; Miller, Tricia; Perkins, Sally; Fitzpatrick, Kevin (ECY)

Cc: gerald@earthlink.com; 'Charley Blaine (E-mail)'; Emma Dixon; James@salbu.com; wstankus@earthlink.net; 'Corinne Hensley'; jgk; james; M. Wiggins; millie.judge; John Koster; SALMONMAN; groupseven@seanet.com; Gary Nelson; kirk.sievers@co.snohomish.wa.us;

shawn.aranow@co.snohomish.wa.us; Randy Sleight; Jim Willett; Jeff Sax

Subject: Construction Stormwater NPDES Permit should be in question response- Brightwater WWTP

Dear Mark - Thank you for the response. But, since King County's NPDES application documents are not accurate, I am at a loss to understand how the DOE can accept this application at all.

The DOE is ultimately responsible for everything that comes off this site and I would like to know what you're basing your judgment on? Again, especially since all of the documents required for your permit need to be revised - location of ponds, claims regarding speed of runoff, storage of toxic chemicals, addressing spills, etc, now that this site is squashed 620ft from the fault line into an area of higher liquefaction, and possibly on top of potential ancillary earthquake faults branching off of lineament 4.

Shouldn't this whole process start over? Shouldn't we get 30 days at a minimum **after** King County updates their documents? The report provided in your review process from King County is dated March of 2004 (MSPPP). This was done prior to their revisions in design of the site as well as the USGS Open File Report dated April, 2004. The trenching required by the King County Hearing Examiner has not been fully completed at this time and the Examiner ruled that the FEIS could not be used for decision making until King County completed the tasks he required.

Additionally, I want to thank you for the offer to meet, but since the documents are out of date and inaccurate - I can't be specific and what can we base our discussion on? King County has not provided an accurate plan based on the requirements of the King County Hearing Examiner, the USGS open file report, confirmation of an active SWIF fault on the site, significantly less space in the middle of the site, etc. etc.

Thank you in advance for your time and concern and please know the public, contrary to King County's claims to adhere to SEPA's requirement for a public process are still in the dark on this.

Sincerely,
Linda

Ecology E-mail Response dated 10/08/04

Linda,

I received your below e-mail and have the following response. The construction stormwater NPDES permit application, which Corinne Hensley requested, consists of EPA Form I, the Notice of Intent, and the Stormwater Pollution Prevention Plan (SWPPP). As a permit condition (see page 5 and 14), the SWPPP needs to be updated prior to the start of construction and annually thereafter. The SWPPP is a living document and needs to be updated to reflect the various stages of construction activity in order to meet water quality standards.

In regard to the basis of the permits, the permit limits contained in Ecology's draft construction stormwater NPDES permits for the WWTP and Conveyance systems are based on surface water quality standards (Washington Administrative Code 173-201A) and groundwater standards (WAC 173-200) as well as technology-based effluent limits. These limits are based on the current treatment methods that are available to treat specific types of pollutants. In essence, the County has to meet the permit limits and water quality criteria at all times. If they do not, then they will be in violation of the terms of the permit and subject to fine. In regard to location

of the ponds, it is up to the County to decide where these temporary construction stormwater ponds will be located but they must be sized to meet the permit limits and water quality criteria or take other actions (i.e employ other treatment or additional treatment or take other action) to ensure compliance. The rate of discharge from the treatment ponds is specified on page 19 of the WWTP (section S6.B.1.b.iv).

In regard to trenching and the King County Hearing Examiner's decision, Ecology is not issuing the final construction stormwater NPDES permits at this time. We are only seeking public comment on draft stage permits.

In regard to meeting, we would be meeting to discuss the current draft construction stormwater NPDES permits and fact sheets (http://www.ecy.wa.gov/programs/wq/permits/northwest_permits.html) for the WWTP and Conveyance system. Our discussion would be on the terms and conditions of these draft permits. If you have questions or concerns about these draft permits, I suggest meeting. The end of the public comment period for the draft construction stormwater NPDES permit for the WWTP and Conveyance projects ends October 22, 2004 and October 24, 2004, respectively.
Sincerely,

Mark Henley, P.E.
Brightwater Facility Engineer
Water Quality Program
Washington State Department of Ecology
phone 425-649-7103
fax 425-649-7098
mahe461@ecy.wa.gov

-----Original Message-----

From: Linda Gray [mailto:newtl@msn.com]

Sent: Friday, October 08, 2004 4:50 PM

To: Henley, Mark

Cc: geraldffarris@earthlink.com; 'Charley Blaine (E-mail)'; Emma Dixon; James@salbu.com; wstankus@earthlink.net; 'Corinne Hensley'; jgk; james; M. Wiggins; millie.judge; John Koster; SALMONMAN; groupseven@seanet.com; Gary Nelson; kirk.sievers@co.snohomish.wa.us; shawn.aranow@co.snohomish.wa.us; Randy Sleight; Jim Willett; Jeff Sax; Miller, Tricia; Perkins, Sally; Fitzpatrick, Kevin (ECY); Drabek, John

Subject: Re: Brightwater Draft Construction Stormwater NPDES Permit

Dear Mark - Thank you and please detail for me the process of how a draft becomes final. Why would you apply for a draft permit? Why wouldn't you apply for a final?

What are the opportunities for public comment/when. Thank you.

Ecology E-mail Response dated 10/08/04

Linda,

Per your questions in the last e-mail, the permit process for a construction stormwater NPDES permit is as follows. Applicant provides a permit application which is reviewed by Ecology.

Ecology prepares a draft permit. Ecology issues a "Public Notice of Draft" in the newspapers to notify the public that we are seeking comments on our draft permit during a 30-day public comment period. Any interested party can submit comments. After the 30 day comment period ends, I prepare a response to comments submitted and include it as an appendix to the fact sheet. At this point, I may modify the draft permit or leave it as is. The draft permit is then issued as a final permit. People who submitted comments will then receive a copy of the final permit via certified mail. These individuals then have 30 days to file an appeal with the Pollution Control Hearings Board on Ecology's permit, if they so desire. Per my earlier e-mail, the public comment period for the draft construction stormwater permit for the Wastewater Treatment Plant has been extended, per Corinne's request, to Friday, October 22, 2004. The comment period for the Conveyance permit ends on Sunday, October 24, 2004. Interested parties can submit comments to me via e-mail or hardcopy letter (Dept. of Ecology, NWRO, Attn. Mark Henley/Tricia Miller, 3190 160th Ave SE, Bellevue, WA 98008-5452)

If you have any more questions or concerns, please feel free to contact me.

Sincerely,
Mark Henley, P.E.
Brightwater Facility Engineer
Water Quality Program
Washington State Department of Ecology
phone 425-649-7103
fax 425-649-7098
mahe461@ecy.wa.gov

-----Original Message-----

From: Bill Stankus [mailto:wstankus@earthlink.net]

Sent: Tuesday, October 12, 2004 10:15 AM

To: Henley, Mark

Cc: 'Linda Gray'; geraldffarris@earthlink.com; 'Charley Blaine (E-mail)'; Emma Dixon; James@salbu.com; 'Corinne Hensley'; jgk; M. Wiggins; millie.judge; John Koster; SALMONMAN; groupseven@seanet.com; Gary Nelson; kirk.sievers@co.snohomish.wa.us; shawn.aranow@co.snohomish.wa.us; Randy Sleight; Jim Willett; Jeff Sax; Miller, Tricia; Perkins, Sally; Fitzpatrick, Kevin (ECY); Drabek, John

Subject: Re: Brightwater Draft Construction Stormwater NPDES Permit

Mr. Henley,

I've read and reread your recent break down of the process and I'm still baffled.

Previously, you wrote:

"At this time, I have received comments from you, Linda Gray, and Bill Stankus. However, none of the comments have been specific to terms in the draft construction stormwater permits and therefore would not warrant a public hearing."

Seems the camel's eye for public comment is obscure, bureaucratic or both.

Just what language, form or specific references must be used in order to say: "Brightwater is an environmental catastrophe waiting to occur."

Regards,

Bill Stankus

Woodinville, Snohomish County

Ecology E-mail response dated 10/12/04

Mr. Stankus,

In regard to your below e-mail, I refer to an e-mail that I sent Corinne Hensley on October 8, 2004: "In regard to a public hearings, these formal hearings can be held for draft NPDES permits (see my below e-mail to you dated 9/14/04). As previously stated, Ecology is the decision authority to decide whether or not a public hearing on our draft permits is warranted and our decision regarding a formal public hearing is based on the feedback that we receive during the public comment period. It is important to note that the comments need to be specific to the terms and conditions of our draft permits and fact sheets and need to raise substantial issues as they relate to the content of the permits to warrant a formal public hearing. The draft permits address the discharge of construction stormwater and dewatering waters to Little Bear Creek and to groundwater during the construction period. The draft permits are water quality permits and do not pertain to siting or land use issues. At this time, I have received comments from you, Linda Gray, and Bill Stankus. However, none of the comments have been specific to terms in the draft construction stormwater permits and therefore would not warrant a public hearing. Again, comments need to be specific to the draft permits and be substantial in nature to warrant a hearing."

As mentioned above, the comments that I received from you, Linda Gray, and Corinne Hensley have not been specific to the terms and conditions or contents of Ecology's draft permits. Comments must be applicable to the permits. If you would like to comment specifically on the draft construction stormwater permits, please feel free to do so.

Sincerely,

Mark Henley, P.E.
Brightwater Facility Engineer
Water Quality Program
Washington State Department of Ecology
phone 425-649-7103
fax 425-649-7098
mahe461@ecy.wa.gov

-----Original Message-----

From: Linda Gray [mailto:newtl@msn.com]

Sent: Saturday, October 16, 2004 2:53 PM

To: Henley, Mark; Miller, Tricia

Cc: gerald@earthlink.com; Charley Blaine (E-mail); Emma Dixon; james; wstankus@earthlink.net; Corinne Hensley; Perkins, Sally; Fitzpatrick, Kevin (ECY); Drabek, John

Subject: Comments for both the Brightwater Route 9 and Conveyance NPDES draft permits

Dear Mr. Henley - The following are my comments for both the Brightwater Route 9 Treatment Plant and Brightwater Conveyance NPDES permits. I will follow with more emails containing documents supporting my issues. Thank you.

Thank you

Linda Gray and SKEA

22629-78th Ave SE

Woodinville, WA 98072

newtl@msn.com

1. The Department of Ecology must not issue final NPDES permits for either the Brightwater Route 9 treatment plant or the Brightwater Conveyance. Both applications do not accurately reflect the impacts/requirements/assumptions, etc resulting confirmation by the USGS of extension of the active and potentially active SWIF faults per USGS 4/04 Open File report throughout the entire Brightwater area. Your comments below are also very confusing in that it appears from what you said that the DOE plans to issue a final NPDES permit based on King County's inaccurate application which includes an inaccurate plant and conveyance design (no mention of the impacts of SWIF faulting) and on outdated FEIS modeling/dewatering/etc claims. As you state below, the draft permit just turns into a final. *"...The draft permit is then issued as a final permit." from 10/12/04 and "In regard to trenching and the King County Hearing Examiner's decision, Ecology is not issuing the final construction stormwater NPDES permits at this time. We are only seeking public comment on draft stage permits." from 10/08/04 - What did you mean with this last comment?*

2. The USGS is two for two now confirming lineaments identified in their open file report as active SWIF faults (Cottage Lake and Lineament 4). There are 6 additional lineaments crossing the Brightwater conveyance and they must be trenched by King County and the Conveyance moved if necessary to not cross active faults.

3. Lineament 4 was confirmed as an active fault two weeks ago. This active fault runs through the middle of the Route 9 site and into the land application area (pg 21). At a minimum this active fault affects the location/function of many designated "permanent" storm water ponds, dewatering, groundwater flow, etc referenced in their application and in their FEIS. See item 4

4. The public has not seen the "real" plant design since confirmation King County of this fault means KC is moving the plant 620ft further south from the fault into more areas of liquefaction. We've asked for King County's updated plans/accurate scale two weeks ago, and were told they are still working on it.

5. *The KC Brightwater Phase I seismic criteria is - a site must be at least 0.5 km away from a documented fault and the conveyance is not to cross documentd faults. Therefore, in reality this plant should be moved 1640 feet from this fault not 620 feet.* Please also note the same USGS open file report clearly shows 6 additional lineaments crossing the Brightwater conveyance from the Route 9 treatment plant site out to and including the outfall. What does this do to their FEIS claims/assumptions, etc? Especially since King County knew about these potential faults long **before** their FEIS came out. As of today the USGS is now two for two - both the Crystal Lake lineament and the Route 9 lineament 4 are active faults. Those 6 additional lineaments crossing the conveyance route are also likely SWIF fault suspects and must be trenched).

6. There is significant danger both to the plant and the conveyance should - Per Dr. Yeats "... a surface-rupturing earthquake on one or more strands of the SWIF would be catastrophic, including rupturing of the conveyance pipeline and sudden dewatering of surface and subsurface streams, destruction of the plant facilities, and possible discharge of raw sewage into Puget Sound, Little Bear Creek, and surrounding communities...." The impacts of surface rupture at the site or along the conveyance have not been documented (see next point).

You must require King County trench the 6 lineaments to determine whether they are active faults before any NPDES applications for conveyance are accepted. Should these faults also be active extensions of the SWIF King County must be required to adjust their conveyance so it does not cross active faults. They knew about this possibility before the FEIS at a minimum and possibly before their DEIS. (see Dr. Yeats Pre-filed testimony and numerous to that effect)

7. Per Dr. Yeats - "...The statement that *"regulatory agencies have not included fault rupture in their hazard maps"* is irrelevant to the impacts analysis. If fault rupture is a potential impact, it must be evaluated whether the regulatory agencies require it or not. The presence of an active fault through the Brightwater site ... and the impact of such a fault to the facility has not been quantitatively evaluated in the FEIS. The proponents should be required to demonstrate that faulting would not rupture the pipeline, thereby dewatering all surface and subsurface water supplies or destroy the plant. If they cannot demonstrate safety, they should be required to present the economic and social costs of the project's destruction. King County should also be required to complete a quantitative risk analysis ... to fully disclose the public cost of the proposed project..."

8. King County had information long before the FEIS and possibly before their DEIS that the potential for extension of the SWIF onto and surrounding the route 9 site was a definite possibility. King County's criteria for eliminating sites from further review was 0.5km proximity to a documented fault. Five out of the original 95 sites were eliminated for this reason and two of those were eliminated for that reason alone. The information King County had available to them could have eliminated the Route 9 site for the same reason. (attached Pre-filed Test (Yeats) entire document plus pgs 23-25, attached emails between BW staff) (attached email string - fault discussions with usgs and ch2.pdf)

9. "...Recovery time from the short-term dewatering is not quantitatively supported, and no site-specific studies have been completed to document if the natural springs or wells impacted by the construction dewatering will ever recover to their pre-Brightwater levels or production rates. This includes the Route 9 site, as well as the conveyance routes."(pg 2 attached BW Hydrology rept)

10. "...Seepage from the wastewater treatment facility could have a major impact on water quality within Little Bear Creek if non-treated wastewater were to enter the creek. The FEIS does not adequately quantify the impacts to Little Bear Creek if such a scenario should occur..." (pg 3 BW Hy Rpt)

11. All 5 items listed in the conclusion on pages 4-5 of the attached BW Hydrology report are of extreme concern.

12. "...The FEIS does an adequate job of identifying the potential project impacts, and does propose viable mitigation measures for those impacts identified. However, in the absence of adequate site-specific quantitative data or analysis, the viability, cost, and technical effectiveness of these mitigation measures cannot be understood. They are presented because they have worked elsewhere. It has not been demonstrated that they will work at this site. Postponing the site-specific studies until the final design may indeed be the most effective use of investigative resources, but it makes it impossible for the public to evaluate and understand the impacts that the project will impose on them and their environment..."

13. The database source for King County's TM/FEIS groundwater maps/modeling/claims for the Route 9 site was completely rewritten - the groundwater maps upon which the FEIS is based were derived from this new database. King County completed many boreholes for the conveyance and the Route 9 site however only 29 of the 150+ were used in the FEIS - I don't know if they ended up in the database? One is left to wonder if the bore holes were purposely selected/excluded. There was a very important borehole which was never logged for the public. this was across from Route 9 Fitz at the entrance to the

road for recycling. We know they uncovered artesian at I believe 3 elevations, had to fill the hole with cement to stop the major flow and yet it continued to bleed water onto the highway through the Summer of 2003. This site was called to attention of Randy Sleight and CVWD by SKEA. (attached - Jan 21,03 from Stan Hummel, June 12,03 email from Joan Stoupa, attachment taken from CVWD, Consultant (Robinson & Noble) noting inconsistencies in the ground water TM released by King County last summer. and attached emails. emails and Dr. Laton's attached report and email to Dr. Yeats)

14. A good question to ask and it ties right in with the issue above - why did King County appear to purposely exclude USGS lineaments from their FEIS, Addendum 3 information? Figure 2-1 is missing major lineaments crossing and along which the conveyance travels yet they appears very clearly on page 44 of the USGS open file report. Dr. Yeats, expert earthquake geologist, responsible for getting the King County Hearing examiner to require King County trench lineament 4 states lineament along Ballinger Way has huge potential for being an active fault. This is where a good portion of the conveyance crosses and the conveyance is right on top of this lineament as it jogs from 195-Ballinger Way. Why was this left off their map - they were working with USGS in 4/04 when the USGS open file report - this was also when Addendum 3 came out. Please note this lineament is also an area of major sink hole activity. King County must be required to trench this and revise the conveyance route before they apply for their NPDES permit.

14. Potential for surge pressures in the conveyance tunnel upstream of the Brightwater IPS and the force main will be affected by the alignment of this tunnel - if it changes at all during an earthquake caused subsidence how will KC address huge portions of the pipe changing alignment or collapsing and resultant damage?

15. Slumping has not been adequately addressed along the conveyance or at the site - see attached Dr. Layton's letter to Dr. Yeats.

Therefore, I am requesting per G3. PERMIT ACTIONS - That this permit and that for the Brightwater conveyance be ... revoked and terminated because of the following:
- 2. Obtaining a permit by misrepresentation or failure to disclose all relevant facts. and
- 4. A determination that the permitted activity endangers human health or the environment or contributes to water quality standards violations and can only be regulated to acceptable levels by permit modification or termination [40 CFR Part 122.64(3)].

Ecology E-mail Response dated 10/20/04

Ms. Gray,

I received your last e-mail and I understand and appreciate the amount of time and energy you have expended in reviewing documents and formulating your comments. Per my earlier e-mails, the construction stormwater NPDES permits are water quality permits and are issued by the Washington State Department of Ecology. These permits have monitoring requirements and set limits on the discharge of pollutants to surface waters and groundwaters of the State. In a nutshell, they address construction stormwater and groundwater discharge impacts to waters of the State. Comments should be made regarding the specific content with the draft permits. If you do not approve of the conditions within the permit (i.e. permit limits, monitoring schedule, etc.) you and any other party are free to do so via the comment period. I review those comments and decide to either modify the draft permit accordingly or leave it as is. After the permit is issued, you and any other party are free to appeal it to the Pollution Control Hearings Board, if you so desire. Ecology does not tell the County how to meet the permit limits and water quality criteria (i.e. size of the ponds, where they are located, etc.) nor do we tell them where to site their

facilities. But we do tell them that they have to meet permits limits and water quality criteria at all times. Ecology's role does not involve siting or land use issues.

In regard to your first question, the draft permit does not necessarily or simply turn into a final permit. If comments are received that are applicable to the permit and are deemed worthy of a permit change then the permit is modified before issuance as a final permit. A response to comments is also provided as an appendix to the fact sheet. Land use and siting issues are not applicable to the construction stormwater permits. As far as, *"In regard to trenching and the King County Hearing Examiner's decision, Ecology is not issuing the final construction stormwater NPDES permits at this time. We are only seeking public comment on draft stage permits."* is concerned, my comment was addressing the fact that Ecology is not planning on issuing the final NPDES construction stormwater permits until the trenching work is conducted and an addendum or supplement to the FEIS is issued.

As a point of clarification regarding General Condition G3 "Permit Actions", this section of the permit allows for terminating a permit during its term or denying a renewal application for various reasons based upon historical permit compliance. The permits have not been issued and therefore, there is no history of endangerment of human health or the environment or water quality violations. We can not pre-emptively revoke or deny a permit for which no impropriety has occurred or based on speculation that violations will occur. In regard to G.3.2, this condition speaks to obtaining a permit renewal by misrepresenting or falsifying permit reporting results. The presence or absence of a fault on the site is irrelevant to the construction stormwater NPDES permits. The Permittee must comply with the permit limits and water quality criteria at all times whether there is or isn't a fault.

I hope this provides further clarification on the construction stormwater NPDES permits.

Mark Henley, P.E.
Brightwater Facility Engineer
Water Quality Program
Washington State Department of Ecology
phone 425-649-7103
fax 425-649-7098
mahe461@ecy.wa.gov

-----Original Message-----

From: Linda Gray [mailto:newtl@msn.com]

Sent: Saturday, October 16, 2004 3:38 PM

To: Henley, Mark; Miller, Tricia; Linda Gray

Cc: geraldffarris@earthlink.com; Charley Blaine (E-mail); Emma Dixon; james; wstankus@earthlink.net; Corinne Hensley; Perkins, Sally; Fitzpatrick, Kevin (ECY); Drabek, John

Subject: Re: Comments for both the Brightwater Route 9 and Conveyance NPDES draft permits - 2nd email attachment

Additional issues

1. Surge issue caused by locating IPS at Portal 41 vs treatment plant see attached.

Ecology E-mail Response dated 10/20/04.

Please see my e-mail dated 10/20/04.

Mark Henley, P.E.
Brightwater Facility Engineer
Water Quality Program
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phone 425-649-7103
fax 425-649-7098
mahe461@ecy.wa.gov

-----Original Message-----

From: Linda Gray [mailto:newtl@msn.com]

Sent: Saturday, October 16, 2004 3:45 PM

To: Henley, Mark; Miller, Tricia; Linda Gray

Cc: geraldffarris@earthlink.com; Charley Blaine (E-mail); Emma Dixon; james; wstankus@earthlink.net; Corinne Hensley; Perkins, Sally; Fitzpatrick, Kevin (ECY); Drabek, John

Subject: Re: Comments for both the Brightwater Route 9 and Conveyance NPDES draft permits - 3rd email with attachments

Last set of emails and point to the last item on page 3 of attached Dr. Yeats hydrogeology letter regarding conditions of subsidence and total collapse of the tunnel.

Ecology E-mail Response dated 10/20/04

If the tunnel were to collapse and cause water quality violations, Ecology would take enforcement action.

Mark Henley, P.E.
Brightwater Facility Engineer
Water Quality Program
Washington State Department of Ecology
phone 425-649-7103
fax 425-649-7098
mahe461@ecy.wa.gov

-----Original Message-----

From: Linda Gray [mailto:newtl@msn.com]

Sent: Saturday, October 16, 2004 4:44 PM

To: Henley, Mark; Miller, Tricia; Linda Gray

Cc: geraldffarris@earthlink.com; Charley Blaine (E-mail); Emma Dixon; james; wstankus@earthlink.net; Corinne Hensley; Perkins, Sally; Fitzpatrick, Kevin (ECY); Drabek, John

Subject: Re: Comments for both the Brightwater Route 9 and Conveyance NPDES draft permits

**Dear Mark - the following was taken from the attachment (CV tech review in the first email in the string) Has Mike K, Robinson & Nobel been answered in relation to the 600gpm?
Thanks**

Volume 3c, Section 4.1.3.1, p. 55, second paragraph, third sentence

"Thus, the total dewatering flows during 3 years of construction time range from approximately 100 gpm at the beginning to 600 gpm at the peak, with a weighted average of about 350 gpm."

The discussion has focused on the 350 gpm rate. Can the described flow rates of 600 gpm be effectively handled by Little Bear Creek, and if so for what duration and during what season (i.e. wet or dry)? Or is there an alternative route for the handling the additional flow?

Ecology E-mail Response Dated 10/20/04

Ms. Gray,

In relation to your questions below in your last e-mail, I have the following response. The Stormwater Pollution Prevention Plan (SWPPP) indicates that the lowest monthly average flow in Little Bear Creek is 7.3 cfs during August. 600 gpm or 1.3 cfs represents about a 18% increase in base flow for August to Little Bear Creek. Figure 4-13, V.8, App. 6B indicates a projected dewatering flow of 550 gpm during March 2008 and 520 gpm during April 2008 (two highest months during construction). A 600 gpm dewatering flow rate is not anticipated to occur during August. The SWPPP indicates that the dewatering flows will not negatively affect the stability of the stream. It is anticipated that the additional cool, clean, an aerated dewatering waters will help improve water quality in the summer months via stream augmentation when stream flows are seasonally low and temperatures high. This would be beneficial to fish. An alternative to handling additional flow in LBC includes discharging dewatering waters back to the ground via soil infiltration at a different location from the withdrawal point.

The Washington State Department of Fish and Wildlife was consulted in April 2004 regarding groundwater discharges to LBC and they did not express concern with discharges on the order of 1 cfs to LBC that are expected to occur during the project.

I hope this response is helpful.

Sincerely,

Mark Henley, P.E.
Brightwater Facility Engineer
Water Quality Program
Washington State Department of Ecology
phone 425-649-7103
fax 425-649-7098
mahe461@ecy.wa.gov

-----Original Message-----

From: James Larsen [mailto:james@salbu.com]

Sent: Wednesday, October 20, 2004 3:22 PM

To: Henley, Mark; 'Linda Gray'; Miller, Tricia

Cc: geraldffarris@earthlink.com; 'Charley Blaine (E-mail)'; 'Emma Dixon'; wstankus@earthlink.net; 'Corinne Hensley'; Perkins, Sally; Fitzpatrick, Kevin (ECY); Drabek, John

Subject: RE: Comments for both the Brightwater Route 9 and Conveyance NPDES draft permits

Dear Mr Henley,

I have been following the email correspondence below with some interest.

I have a question with regard to the following statement:

"If you do not approve of the conditions within the permit (i.e. permit limits, monitoring schedule, etc.) you and any other party are free to do so via the comment period."

Based on the above. Could you please direct me to specific paragraphs in your permit that demonstrates that sufficient monitoring is being done to ensure that pollutants from oil spills and battery acid etc. that could be trapped in pockets in the soil in the proposed site, will not be dislodged during excavation and spill undetected into the local streams etc. Considering the history of the site, the underlying soil may have sporadic patches of pollution at different depths and in unexpected places. There are many volatile chemicals associated with wrecked cars ranging from antifreeze, lead, battery acid etc. Perhaps you can expand on this list and indicate what you have done in specific terms to ensure the conditions of the permit have been adequately specified to ensure monitoring and detection etc. This is a very large excavation and a very large area of wrecked cars on top of a fragile water system and I am sure this is going to require a comprehensive plan of monitoring on your part.

Some of the above are volatile chemicals and I would assume this would require close and continuous monitoring on your part. Perhaps if you included some extracts from the permit and give potential incidents and explain how your monitoring procedure would protect the environment in a tutorial fashion, it would help us to evaluate the effectiveness of the conditions of the permit limits, monitoring schedule, etc.

Regards, James Larsen

James D Larsen
22111 55th Ave SE
Woodinville, WA
98072
USA

Ecology E-mail Response Dated 10/21/04

Mr. Larsen,

In regard to your e-mail below, the issue of possible environmental contamination from past historical practices at the Route 9 site is addressed in the draft construction stormwater NPDES permit in a number of ways. Please see page 21, #3, *"During excavation activities, if excavated soils exhibit a sheen or unusual odor, indicative of possible soil contamination, the excavation activity will be immediately halted and the soil tested. If the testing confirms the presence of contaminated soils, then these soils will be disposed of in accordance with Ecology's standards."*

In addition, page 20, #3 states, *"Prior to the start of construction, the Permittee shall submit a report to Ecology verifying that the remedial activities, based on the Phase I and Phase II environmental site assessments, have been completed and that the cleanup efforts meet the*

MTCA soil cleanup standards. The Permittee shall further verify that the cleanup activities are also protective of surface and groundwater quality by monitoring surface and groundwater via the monitoring schedule described in Section S3, Tables C.1 and C.2 of this permit."

The monitoring schedule includes sampling stormwater and dewatering waters for priority pollutant metals, volatile organic compounds, polynuclear aromatic hydrocarbons, and polychlorinated biphenyls. Please see the Monitoring Schedule on page 9 of the permit. A list of the metals, volatile organic compounds, polynuclear aromatic hydrocarbons, and polychlorinated biphenyls is included in Appendix C (page 19) of the Fact Sheet.

I hope my response provides clarification.

Sincerely,
Mark Henley, P.E.
Brightwater Facility Engineer
Water Quality Program
Washington State Department of Ecology
phone 425-649-7103
fax 425-649-7098
mahe461@ecy.wa.gov